

Response under 37 C.F.R. §1.114  
Serial No. 10/083,53310/083,533  
Attorney Docket No. 020244

**REMARKS**

Claims 1-40 are pending, of which, claims 1-15 and 40 are rejected and claims 16-39 have been withdrawn from consideration. Claims 1, 9 and 40 have been amended herein.

Independent claims 1, 9, and 40 have been amended to clarify that the bird's beak structure is formed in accordance with a film thickness of the protection insulating film of 5-10 nm. Support is found at page 24, lines 31-34 of the specification (paragraph [0087] of the published application) as "the protection insulating film 18 of a thickness of 5 to 10 nm is formed of a thermal oxide film so as to cover the floating gate electrode pattern 13A in the region A."

Patelmo neither discloses nor suggests that the bird's beak structure formed simultaneously with the protection insulating film is formed so as to be suitable for preventing degradation of the gate oxide film of the flash memory (that is, Patelmo neither discloses nor suggests that the bird's beak structure is formed not to be so thick as to prevent drive current).

As a result of the above-described amendment, it is believed that claims 1-5, 7, 9-12, 14 and 40, which stand rejected under 35 U.S.C. 102(e) as being anticipated by Patelmo, are allowable over Patelmo.

Further, since claims 8 and 15, which stand rejected under 35 U.S.C. 103(a) as being unpatentable over Patelmo in view of Prall et al., depend from independent claim 1

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or 9, it is believed that claims 6, 8, 13 and 15 will be allowable once the rejection of independent claims 1 and 9 is withdrawn.

In the event the Examiner does not consider this amendment to place the application in condition for allowance, the Examiner is requested to telephone the undersigned attorney to schedule an interview.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

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